

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

RONALD HOWARD MOORE	§	
v.	§	CIVIL ACTION NO. 6:05cv154
DIRECTOR, TDCJ-CID	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE

The Petitioner Ronald Moore, proceeding *pro se*, filed this application for the writ of habeas corpus under 28 U.S.C. §2254 complaining of the legality his conviction. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Moore's petition was dismissed in November of 2005, and Moore filed a notice of appeal. The case was remanded to the district court for a determination of whether Moore's notice of appeal was timely. On September 25, 2006, the Magistrate Judge issued a Report recommending that the Court find that Moore's notice of appeal was not timely filed. Moore received a copy of this Report on September 29, 2006, but filed no objections thereto; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has carefully reviewed the pleadings and records in this cause, as well as the Report of the Magistrate Judge. Upon such review, the Court has concluded that the Report of the Magistrate Judge is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the Court hereby finds as a fact that the Petitioner's notice of appeal was not filed on or before December 28, 2005, and therefore was not timely. It is further

ORDERED that a copy of this order shall be sent to the Fifth Circuit Court of Appeals, with reference to appeal no. 06-40316.

**So ORDERED and SIGNED this 31st day of October, 2006.**

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

**LEONARD DAVIS**  
**UNITED STATES DISTRICT JUDGE**